

LAW OFFICE OF MARK S. MISHLER, P.C.

744 BROADWAY - ALBANY, NEW YORK 12207

Tel: 518-462-6753 - fax: 518-432-7325 - mishlerlaw@gmail.com - www.markmishlerlaw.com

January 15, 2025

Via ECF

Hon. Paul Evangelista

U.S. Magistrate, U.S. District Court, Northern District of New York

Re: Saratoga Black Lives Matter, et al. v. The City of Saratoga Springs, et al.
1:24-cv-865 (TJM/CFH)

Dear Judge Evangelista:

I represent the plaintiffs in the case, which raises civil rights claims on behalf of eight individuals and one organization related to actions taken by the defendants over a period of several years, including multiple allegations of unlawful arrest, malicious prosecution, and 1st Amendment violations arising out of political activism by the plaintiffs.

There are pending motions to dismiss on behalf of four of the defendants. The Response date for the plaintiffs is currently January 17, 2025.

At this time, plaintiffs respectfully ask for an additional extension of this deadline. The request, as explained below, is for an extension to February 28th for plaintiffs to either file and serve an Amended Complaint or to respond to the motions.

There are several reasons for this request.

First, among the actions complained of in the Complaint are three still unresolved charges brought against plaintiff Alexis Figueroa by certain defendants. Complaint, paragraphs 389 – 413 (a disorderly conduct charge relating to alleged conduct at an April 2023 City Council meeting remains pending) and Complaint paragraphs 414 – 437 (two separate charges relating to alleged violation of City ordinances relating to permits concerning two rallies or marches in May 2024 remain pending).

The fact that these charges remain pending is pertinent to arguments raised in the motions to dismiss filed by defendants Safford, Coll, and Montagnino. It is anticipated that all three of these charges will be resolved in some manner within the next month. The resolutions of these charges, whatever they turn out to be, will be relevant to the claims raised in the Complaint and the responses to those claims.

Plaintiffs submit, instead of litigating the issues relating to these three charges at this time via motion practice, it makes much more sense to wait until there are final dispositions of these charges.

Second, there are now other co-counsel engaged in representing the plaintiffs in this case, the firm of Cohen & Green (which has formally appeared already) and other counsel who is about to file his notice of appearance. As this new co-counsel have engaged in reviewing the Complaint and the pending motions, they have advised, and I agree, that many, if not all, of the arguments raised in the pending motions to dismiss can be addressed through the filing of an Amended Complaint.

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Therefore, as we expect new facts to emerge in the coming month or so (related to the three still pending charges against plaintiff Figueroa) and as we believe most, if not all, of the issues raised in the motions to dismiss can and ought to be addressed by the filing of an Amended Complaint, we ask that the deadline be extended in order to ensure the three pending charges are resolved and that plaintiffs have sufficient time to prepare an Amended Complaint.

We submit the date of February 28, 2025, provides sufficient time for the pending City Court matters to be resolved and for the preparation of an Amended Complaint.

I reached out to all of the defense counsel in this case yesterday requesting their consent to this requested extension. I have not heard back yet and thought it best to submit the request today as the current deadline is January 17th.

Plaintiffs, of course, would agree to whatever period of time the defendants believe is reasonable to respond to the Amended Complaint once it is filed.

Thank you very much for your consideration of this request.

Very truly yours,

/s/ MARK S. MISHLER

Mark S. Mishler, Esq.

Attorney for Plaintiffs

cc: to all counsel via ECF